

EXHIBIT C

CIVIL COURT CITY OF NEW YORK
COUNTY OF NEW YORK
STATE OF NEW YORK

Index # 32484NYCV2005

AETNA

DISCOVER BANK
ISSUER OF THE DISCOVER CARD
3311 MILL MEADOW DRIVE
HILLIARD, OH 43026

Plaintiff(s)

v.

AFFIRMATION OF REGULARITY
AND DEFAULT JUDGMENT

VICTOR C CALLENDER
410 W 130TH ST
NEW YORK NY 10027-7531

Defendant(s)

2005 NOV 19 PM 12:45
JUDGMENT ENTERED
CLERK'S OFFICE
CIVIL COURT
NEW YORK COUNTY

The undersigned, attorney-at-law of the State of New York and attorney of record for the plaintiff(s) herein affirm under penalties of perjury:

1. The summons and verified complaint in this action was:
(X) served by substitute service on the Defendant, Victor C Callender, on July 15, 2005 with the affidavit of perjury filed with the clerk on July 27, 2005.
2. The additional notice requirements as set forth in CPLR 3215(g) (3) have been complied with.
3. The time of the defendant(s) to appear or answer has expired and the defendant(s) has not appeared or answered herein.
4. The sums sought and the disbursements set forth below are true and accurate. The disbursements have been or will be made accurate. The disbursements have been or will necessarily be made or incurred herein and are reasonable in amount.

AMOUNT CLAIMED IN COMPLAINT	\$5,896.87	\$5,896.87
INTEREST at 0% from July 6, 2005 to October 17, 2005		\$0.00
SUBTOTAL		\$5,896.87
COSTS BY STATUTE	\$20.00	
INDEX NUMBER FEE	\$45.00	
TRANSCRIPTS AND DOCKETING	\$0.00	
SERVICE OF SUMMONS & COMPLAINT	\$25.00	
POSTAGE	\$0.00	
SHERIFF'S FEES ON EXECUTION	\$40.00	
TOTAL COSTS	\$130.00	
TOTAL JUDGMENT AMOUNT		\$6,026.87

5. Wherefore, it is required that judgment be entered accordingly.

Dated: October 17, 2005

Allen D. Friedman
Allen D. Friedman, Esq.
Patricia A. Blair, Esq.
Christa L. Muratore, Esq.
Maria J. Reed, Esq.

Now on motion of Wolpoff & Abramson, LLP an attorney for plaintiff, 300 Canal View Blvd., 3rd Floor, Rochester, New York, it is adjudged that Plaintiff, Discover Bank ISSUER of The Discover Card, 3311 MILL MEADOW DRIVE, HILLIARD, OH 43026 do recover of the defendant(s) Victor C Callender, herein residing at 410 W 130TH ST, NEW YORK NY 10027-7531, the sum of \$5,896.87 with interest of \$0.00, together with \$130.00 costs and disbursements, amounting in all to the sum of \$6,026.87 and that the Plaintiff have execution therefore.

Clerk

DEC 21 2005

W&A# 139183649

Callender 42

EXHIBIT D

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW YORK

3 VICTOR CALLENDER, * CIVIL ACTION NO.
 * 1:15-CV-05813-AKH
4 Plaintiff, *
 *
5 vs. *
 *
6 FORSTER & GARBUS, LLP and *
 DISCOVER BANK, *
7 *
 Defendants. *
8 ----- *

9
10
11 DEPOSITION OF
12 JOEL D. LEIDERMAN, ESQ.
13 COMMACK, NEW YORK
14 SEPTEMBER 28, 2016

15
16
17
18
19
20 REPORTED BY: WANDA WILKINS, CSR NO. 30XI00117400
21 JOB NO. 139075

<p style="text-align: right;">Page 26</p> <p>1 interruption.)</p> <p>2 Q. So, Forster and Garbus garnished</p> <p>3 Mr. Callender's wages based on a vacated</p> <p>4 Judgment. Is that correct?</p> <p>5 MS. LASTORINO: Objection to form.</p> <p>6 A. Yes. When the case came in to us</p> <p>7 in 2009 -- it was referred to us in 2009 -- it</p> <p>8 was a valid Judgment. That Judgment was valid</p> <p>9 up until the time that Mr. Callender brought an</p> <p>10 Order to Show Cause and successfully brought the</p> <p>11 Judgment vacated. However, Forster & Garbus was</p> <p>12 not aware of that until the time that Mr.</p> <p>13 Callender's wages were garnished to the extent</p> <p>14 of approximately \$210.00 and we received a</p> <p>15 letter from -- I believe it was the Urban</p> <p>16 Justice Center, who advised us, at that time,</p> <p>17 that the Judgment, unbeknownst to us, had been</p> <p>18 vacated; and at that time, within a few days</p> <p>19 thereafter, moneys that had been detected,</p> <p>20 including marshal's poundage were refunded to</p> <p>21 Mr. Callender.</p> <p>22 Q. Do you know if there were any fees</p> <p>23 that were associated with the garnishment of Mr.</p> <p>24 Callender's wages, based on a vacated Judgment,</p> <p>25 that were not returned to Mr. Callender?</p>	<p style="text-align: right;">Page 28</p> <p>1 he never once mentioned the Judgment. He never</p> <p>2 once said anything about a judgment. He denied</p> <p>3 that he had a Discover card. That account was</p> <p>4 considered, therefore -- his complaint was</p> <p>5 considered to be a fraud or false identity</p> <p>6 claim, so that we ceased collection on it at</p> <p>7 that time. We went back to the client. The</p> <p>8 client investigated that. They were able to</p> <p>9 manage the application and the signatures and</p> <p>10 the addresses and the billing statements, et</p> <p>11 cetera, and determined that it was an invalid</p> <p>12 fraud. So, there was no knowledge at Forster &</p> <p>13 Garbus that the Judgment had been vacated. The</p> <p>14 notice to the -- the Order to Show Cause was not</p> <p>15 served on Forster & Garbus, despite the fact</p> <p>16 that Mr. Callender was aware, based on many</p> <p>17 letters sent to him over the course of time,</p> <p>18 between 2009 and the date the Judgment was</p> <p>19 vacated. Never once notified us that he did not</p> <p>20 owe the debt until he, you know, alleged same to</p> <p>21 the Department of Consumer Affairs and never did</p> <p>22 anything to serve us with the Order to Show</p> <p>23 Cause, despite knowledge of the fact that our</p> <p>24 client was trying to collect that Judgment.</p> <p>25 Q. Anything else?</p>
<p style="text-align: right;">Page 27</p> <p>1 A. No, I do not.</p> <p>2 Q. Why -- I'm sorry. Is that the</p> <p>3 reason why Forster & Garbus garnished my</p> <p>4 client's wages, based on a vacated Judgment?</p> <p>5 Were you satisfied that that's the reason?</p> <p>6 MS. LASTORINO: Objection to form.</p> <p>7 A. As far as Forster & Garbus knew,</p> <p>8 it was a valid Judgment, and that's why we</p> <p>9 garnished his salary.</p> <p>10 Q. Okay. What meaningful attorney</p> <p>11 review, if any, did Forster & Garbus undertake</p> <p>12 prior to garnishing my client's wages?</p> <p>13 A. Mr. Callender was notified on many</p> <p>14 occasions of the involvement of our firm and</p> <p>15 that a Judgment had been entered. Mr. Callender</p> <p>16 did not do anything to advise this firm that the</p> <p>17 Judgment had been vacated. In fact, he had made</p> <p>18 a complaint to the Department of Consumer</p> <p>19 Affairs. In that complaint, he alleged that he</p> <p>20 had never had a Discover account, Discover card</p> <p>21 account. Nevertheless, prior to that time, he</p> <p>22 had already, with a Discover card account --</p> <p>23 this particular account -- had gone to court and</p> <p>24 had the Judgment vacated; but yet, in his</p> <p>25 complaint to the Department of Consumer Affairs,</p>	<p style="text-align: right;">Page 29</p> <p>1 A. No. At this point, that's my</p> <p>2 answer.</p> <p>3 Q. All right. But I just want to</p> <p>4 make sure that the record is clear. Prior to</p> <p>5 issuing -- prior to Forster & Garbus garnishing</p> <p>6 my client's wages, based on a vacated Judgment,</p> <p>7 what -- up top point, what meaningful attorney</p> <p>8 review did Forster & Garbus take to determine</p> <p>9 whether the Judgment it was executing on was</p> <p>10 valid, when it issued the execution?</p> <p>11 MS. LASTORINO: Objection to form.</p> <p>12 You can answer.</p> <p>13 A. When the Judgment was entered --</p> <p>14 when the account was referred to us with the</p> <p>15 Judgment, we sent a letter, pursuant to the Fair</p> <p>16 Debt Collections Practices Act, identifying the</p> <p>17 fact that there was a -- that there was a</p> <p>18 Judgment and advising that this firm was now</p> <p>19 seeking to collect that Judgment; and under the</p> <p>20 FDCPA, the debt is assumed to be valid and the</p> <p>21 Judgment is assumed to be valid unless the</p> <p>22 consumer disputes it, which he did not do at</p> <p>23 that time. Therefore, we proceed with the</p> <p>24 assumption that the debt is valid. We follow up</p> <p>25 with several letters in an attempt to contact</p>

<p style="text-align: right;">Page 30</p> <p>1 the consumer to try to collect on it.</p> <p>2 The question of meaningful</p> <p>3 involvement is an interesting issue on</p> <p>4 post-judgment cases. You seem to allege that</p> <p>5 the attorney has to be meaningfully involved in</p> <p>6 every, every aspect of that case. However, if</p> <p>7 you look at the history of meaningful</p> <p>8 involvement under the FDCPA, I believe it has to</p> <p>9 do more with the impression of a least</p> <p>10 sophisticated consumer. Least sophisticated</p> <p>11 consumer, okay -- if something comes out on</p> <p>12 attorney letterhead, there have been courts that</p> <p>13 have said that that raises the price of poker;</p> <p>14 and so, in New York, we have the Greco vs.</p> <p>15 Trauner case, which allows a disclaimer to be</p> <p>16 placed in that. But that's on pre-legal cases,</p> <p>17 pre-litigation cases. This is a judgment file.</p> <p>18 So, clearly, I think even the least</p> <p>19 sophisticated consumer would recognize that a</p> <p>20 letter from a law firm that says a Judgment has</p> <p>21 been entered -- well, the price of poker has</p> <p>22 already gone up. It went up when he was sued in</p> <p>23 2005. Okay. He was aware of that Judgment on</p> <p>24 several occasions. So, in terms of attorney</p> <p>25 meaningful involvement, there's no obligation</p>	<p style="text-align: right;">Page 32</p> <p>1 seeking to, you know, collect a judgment, which</p> <p>2 is enforceable." That was not his complaint to</p> <p>3 the DCA. His complaint to the DCA is "I didn't</p> <p>4 have a Discover card."</p> <p>5 Q. So, let me make sure if I</p> <p>6 understand your -- you raise a lot of issues.</p> <p>7 So, let's go through them.</p> <p>8 A. Surely.</p> <p>9 Q. And I thank you for that. I</p> <p>10 appreciate it. One thing I'm trying to get</p> <p>11 specifically, is it Forster & Garbus's position</p> <p>12 that when it executes on someone's wages, based</p> <p>13 on an alleged Judgment, is it Forster & Garbus's</p> <p>14 position that it is not required to do a</p> <p>15 meaningful attorney review of the facts and</p> <p>16 circumstances of the consumer's account, the</p> <p>17 alleged Judgment, prior to executing on those</p> <p>18 wages?</p> <p>19 A. No. There was a review done.</p> <p>20 There's a review done by an attorney before the</p> <p>21 execution is issued and an attorney reviews the</p> <p>22 restraining notice; but it's based on</p> <p>23 information that is retained in the file at that</p> <p>24 time, such as, you know, a Judgment, Judgment</p> <p>25 information. The restraining notice or income</p>
<p style="text-align: right;">Page 31</p> <p>1 that we go forward, other than to seek to</p> <p>2 collect what we consider to be a valid debt for</p> <p>3 various reasons. We rely on the client that the</p> <p>4 Judgment was entered. It was, in fact, a valid</p> <p>5 Judgment at that time the case was referred to</p> <p>6 us, in 2009. It was a valid Judgment in 2005,</p> <p>7 when it was entered. It was a valid Judgment,</p> <p>8 up until the court determined that it was not a</p> <p>9 valid Judgment, based on an Order to Show Cause</p> <p>10 which was not served upon Forster & Garbus and</p> <p>11 that Forster & Garbus had no awareness of.</p> <p>12 So, in terms of our involvement,</p> <p>13 had Mr. Callender sought to contact our office</p> <p>14 in such a way as to bring to our attention that</p> <p>15 for some reason, this Judgment was not valid,</p> <p>16 that would have been explored, but I don't see</p> <p>17 that in anything that I reviewed. I don't see</p> <p>18 it in the -- I don't see it in the service of</p> <p>19 the Order to Show Cause, which was not served</p> <p>20 upon Forster & Garbus, despite the fact that</p> <p>21 Forster & Garbus had sent many and had many</p> <p>22 communications to Mr. Callender when Mr.</p> <p>23 Callender made his DCA complaint. He did not</p> <p>24 say, "Oh, this Judgment is invalid. I have a</p> <p>25 Judgment against me. Forster & Garbus is</p>	<p style="text-align: right;">Page 33</p> <p>1 execution could not be issued if there was a</p> <p>2 vacated Judgment because that Judgment and</p> <p>3 information would be reviewed -- would be</p> <p>4 removed from the computer file. So, it would be</p> <p>5 impossible to produce a Judgment -- a</p> <p>6 restraining notice or an income execution or a</p> <p>7 post-judgment enforcement device. So, the</p> <p>8 review is done based on the records that are</p> <p>9 there.</p> <p>10 As to whether or not there was a</p> <p>11 bankruptcy, some of our clients do require</p> <p>12 certain, what we call, "scrubs." Bankruptcy,</p> <p>13 military, deceased and they require that at</p> <p>14 various times; and over the years, that's</p> <p>15 changed. So, in 2009, I can't tell you exactly</p> <p>16 which clients and what that -- you know, who</p> <p>17 required certain scrubs, but a lot of clients</p> <p>18 today require scrubs. Not only upon the initial</p> <p>19 referral, which is maybe what the procedure was</p> <p>20 back in 2009, but now, they're required before</p> <p>21 you enter the Judgment and before you seek to</p> <p>22 execute on the Judgment. So, before doing so,</p> <p>23 we will run another bankruptcy scrub to make</p> <p>24 sure that the person didn't file bankruptcy in</p> <p>25 the interim. We will do a military scrub to</p>